

NOT FOR PUBLICATION

FOR UPLOAD

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN
APPELLATE DIVISION**

Rosa Williams,)	
)	
Appellant,)	
)	Civ. App. No. 2002-131
v.)	
)	
Phil Davis and the Honorable Audrey L. Thomas,)	Re: Terr. Ct. No. DV172/2002
)	
Appellees.)	

On Appeal from the Territorial Court of the Virgin Islands

Considered August 9, 2002

Filed August 12, 2002

BEFORE: **RAYMOND L. FINCH**, Chief Judge of the District Court of the Virgin Islands; **THOMAS K. MOORE**, Judge of the District Court of the Virgin Islands; and **PATRICIA D. STEELE**, Judge of the Territorial Court of the Virgin Islands, Division of St. Croix, Sitting by Designation.

ATTORNEY :

Dean C. Johnson, Esq.
St. Thomas, U.S.V.I.
Attorney for Appellant.

JUDGMENT ORDER

PER CURIAM.

Appellant Rosa Williams ["appellant"] recently filed a writ

of mandamus seeking to compel the Honorable Judge Audrey Thomas ["Judge Thomas"] and all other Territorial Judges to permit her "to be fully represented by counsel . . . in a court ordered rehearing of the Permanent Restraining Order." Apparently, at the permanent restraining order hearing involving a domestic violence matter, Judge Thomas informed appellant's counsel that he could not participate in the hearing, but that his client could consult with him if she had any questions. On July 17th, Judge Thomas ordered dual restraining orders against the appellant and appellee Phil Davis ["Davis"] and ordered Davis to pay \$180 in medical expenses. As noted above, appellant now seeks a rehearing and an order compelling the trial judge to permit full representation by her attorney. This Court has "jurisdiction to hear and determine petitions for writ of mandamus to the judges of the Territorial Court." See *In re Richards*, 52 F. Supp. 2d 522, 526 (D.V.I. App. Div. 1999) (citations omitted), *rev'd on other grounds*, 213 F.3d 773, 781 (3d Cir. 2000) (holding that "the Appellate Division of the District Court of the Virgin Islands has the power to issue writs of mandamus when it possesses the requisite appellate jurisdiction").

Writs of mandamus are only to be used in extraordinary circumstances and only when no alternative remedy exists. See *In*

re Richards, 213 F.3d 773, 782 (3d Cir. 2000). Appellant's petition for a writ fails to meet these requirements. First, no extraordinary circumstances exist to warrant issuing a writ of mandamus. Even though appellant did not have the benefit of full representation by her attorney, she succeeded in obtaining a restraining order against Davis. The fact that a restraining order was also imposed on her is irrelevant because she has not suffered a level of harm necessitating a writ of mandamus. Moreover, the appellant's failure to include any time frame by which this Court must act on her petition belies the argument that her harm is of such extraordinary character to warrant a writ of mandamus. Second, appellant fails to establish that no alternative remedy exists to grant her relief. The proper course of action for appellant would have been to appeal Judge Thomas's decision to this Court. See *Westinghouse Elec. Corp. v. Republic of Philippines*, 951 F.2d 1414, 1422 (3d Cir. 1991) ("Mandamus must not be used as a mere substitute for appeal."). Appellant attempts to negate the effect of this remedy by arguing that the year-and-a-half it took this Court to address the domestic violence issue in *Thomas v. Thomas*, Civ. App. No. 2000-10, renders this Court "a meaningless avenue for redress." This argument, however, is inapposite for the delay in that case resulted from the appellant's failure to request an expedited

appeal, and, in any event, the appellate process is still available to provide appellant with a remedy. Accordingly, it is hereby

ORDERED that appellant's petition for writ of mandamus is **DENIED.**

ENTERED this 12th day of August, 2002.

ATTEST:

WILFREDO F. MORALES
Clerk of the Court

By: _____/s/_____
Deputy Clerk